

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendraye
Ellen Gavin
Marshall Johnson
Phyllis A. Reha
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Joint Complaint of the Office
of the Attorney General and Minnesota
Department of Commerce and Request for
Temporary Relief

ISSUE DATE: March 13, 2003

DOCKET NO. P5323/C-03-140

ORDER ACCEPTING STIPULATION ON
INTERIM RELIEF AND REQUIRING AN
ANSWER

PROCEDURAL HISTORY

On February 7, 2003, the Residential and Small Business Utilities Division of the Office of the Attorney General (RUD-OAG) and the Minnesota Department of Commerce (DOC) (Complainants) filed a joint complaint (Complaint) and request for temporary relief against McLeodUSA Telecommunications, Inc. (McLeod) alleging, among other things, inadequate and untariffed customer service practices including not filing all terms and conditions concerning its early termination fee in its tariff.

On February 13, 2002, McLeod, by letter, agreed to voluntarily refrain from pursuing collection of early termination fees with respect to all present and former customers until the Complaint is resolved by Commission order or agreement between McLeod and the Joint Complainants.

On February 20, 2003, McLeod filed a Stipulation on Interim Relief in which McLeod agreed to voluntarily implement the Complainants' request for temporary relief and to forgo collection of termination charges pending resolution of the Complaint.

On February 27, 2003, this matter came before the Commission.

FINDINGS AND CONCLUSIONS

This Order addresses only procedural issues in this matter and does not address the substantive issues of the Complaint.

I. Summary of Complaint

The Complaint was brought by the DOC and RUD-OAG on behalf of the small businesses that contracted with McLeod for telecommunication services.

The Complaint alleged inadequate service by McLeod, inadequate and untariffed customer service practices, and failure to file in its tariff all terms and conditions concerning its early termination fee. Further, the Complaint alleged that McLeod customers who switched to other providers because of poor service were assessed excessive termination liability fees.

The DOC and RUD-OAG asked the Commission to, among other things, provide temporary relief by enjoining McLeod from pursuing collection efforts on all current and/or former customers that have been assessed early termination fees until the Complaint is resolved. Further, they asked that the Commission order McLeod to produce certain documents, to file a refund plan and to submit a compliance plan as well as requesting that the Commission assess penalties pursuant to Minn. Stat. § 237.462.

II. McLeod's Response

McLeod agreed to voluntarily refrain from pursuing collection of early termination fees with respect to all current and former McLeod customers until the Complaint was resolved by Commission Order or by an agreement between McLeod and the Complainants.¹

In oral comments before the Commission, McLeod stated that it was not contesting the Commission's jurisdiction and not contesting an investigation. Further, it indicated that it would cooperate with ongoing discovery requests from the DOC but did reserve the right to contest specific discovery requests.

III. Consolidation Issue

In Docket No. P5323/C-02-1848, USLink, Inc. (USLink) stated its concern regarding McLeod's application of its early termination charge to several of USLink's customers and requested that either the Commission, the DOC or RUD-OAG investigate this matter.

The issue of whether the P5323/C-02-1848 docket should be consolidated with the present docket arose at the hearing.

¹ The DOC and the RUD-OAG joined in the Stipulation and Agreement presented by McLeod.

USLink stated it had no problem with consolidating the two dockets as long as it had an opportunity to be heard on its concerns.

McLeod stated it had not had time to consider the implications of consolidating these dockets as the issue had first come up at the hearing.

IV. Commission Action

There is no dispute that the Commission has authority under Minn. Stat. § 237.081 to investigate the claims raised in the Complaint.

The Commission will approve the Stipulation on Interim Relief as agreed to by the parties. McLeod's forgoing the collection of termination charges with respect to former and current McLeod customers pending resolution of this Complaint allows the process to go forward and is reasonable to protect the public interest.

The Complainants have presented numerous claims and allegations regarding inadequate service, lack of telephone service, non-responsiveness by McLeod to customer complaints and unfiled tariff terms and conditions concerning early termination. The allegations presented, supported by customer affidavits, clearly are grounds for further investigation. To move the investigation forward, the Commission will order McLeod to answer the allegations in the Complaint and address consolidation.

The Commission will also allow reply comments following McLeod's filing an answer. The comments should include comments on how to proceed and also comments on the issue of consolidation.

Further, the Commission recognizes that McLeod has indicated its willingness to have discovery continue during the period it is filing its answer and comments are being made and the Commission will accept McLeod's offer and direct that discovery continue.

ORDER

1. The Stipulation on Interim Relief presented by McLeod is hereby approved.
2. McLeod shall answer the Complaint filed on February 7, 2003 by the DOC and the RUD-OAG against McLeod within 20 days of the date of this Order.
3. Parties may file reply comments after McLeod has filed its answer. Reply comments should include comments on the issues of future procedure and consolidation and be filed on time lines set by the Executive Secretary.

4. McLeod shall cooperate with discovery continuing during the answer and comment periods cited above.
5. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

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